



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

JMM/SK  
F.#2013R00948

*610 Federal Plaza  
Central Islip, New York 11722*

May 13, 2015

By Hand

The Honorable Joseph F. Bianco  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

Re: United States v. Tommy Constantine  
Criminal Docket No. 13-607 (S-2) (JFB)

Dear Judge Bianco:

The government respectfully submits this letter brief in support of the admission of Government Exhibit 8021R at trial. The government intends to offer GX-8021R during the testimony of Patrick Gonya.

GX-8021R consists of redacted excerpts of a certified transcript of a deposition of defendant Tommy Constantine that took place on April 23, 2009.<sup>1</sup> The excerpts constitute admissions of the defendant made on the eve of the defendant's initiation of the Global Settlement Fund scheme, approximately two weeks before the defendant and co-defendant Kenner visited investors in their homes to raise money for the scheme. The excerpts are highly probative of the defendant's motive in hatching the GSF scheme, intent to defraud investors through the GSF scheme, and unauthorized diversion of investor funds through the GSF scheme and each of the other schemes charged in the indictment. The excerpts also contain admissions relevant to the Hawaii and Eufora schemes as well as admissions that help establish the conspiracy between the defendant and co-defendant Kenner. The table below provides a page-by-page proffer of the relevance of the excerpts contained in GX-8021R.

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<sup>1</sup> The full transcript was provided to the defense in discovery on September 2, 2014. See ECF No. 89.

<b><u>Transcript Pages</u></b>	<b><u>Substance of Statements</u></b>	<b><u>Relevance</u></b>
3-4, 8-9	The defendant indicates that he is about to move out of his home due to foreclosure by the bank. The defendant also describes all of the property he owns as either in foreclosure or in repossession.	Establishes intent to defraud and unauthorized diversions in connection with the GSF scheme: The defendant thereafter used GSF proceeds to arrange for the re-purchase of his home out of foreclosure by a friend, and further used GSF proceeds to pay rent to that friend so that he can remain in the home. The defendant also used GSF proceeds to arrange for the purchase of a plane out of repossession and an airpark out of bankruptcy.
4-6, 13, 55	The defendant describes his employment from 2004 to 2009 and explains that racing was not profitable.	Establishes motive in connection with the Hawaii and Eufora schemes: The defendant's inability to profit from driving racecars and running businesses provided a motive for him to steal from the Hawaii and Eufora investors.
5	The defendant describes Eufora as not a profitable endeavor.	Establishes misrepresentation in connection with the Eufora scheme: The defendant's statement contradicts his representation to investors in February-July 2008 and December 2009 that Eufora was a promising company.
6, 8-9	The defendant describes other businesses he formed as "nothing of substance" and all of the property he owns as either in foreclosure or in repossession.	Establishes misrepresentation in connection with the GSF scheme: The defendant thereafter falsely told investors that they would be acquiring "significant assets" in holding companies for a plane, airpark, and Eufora.

7-8, 13, 168	The defendant describes himself as involved in real estate and as the founder of Eufora.	Establishes background and conspiracy in connection with the Hawaii and Eufora schemes.
15, 83-84	The defendant identifies the Constantine Management Group bank account as his personal bank account.	Establishes the connection between the defendant and a bank account that received proceeds from each of the fraudulent schemes alleged in the indictment.
16	The defendant identifies Steve Silver as his personal tax attorney.	Establishes unauthorized diversion in connection with the GSF scheme: The defendant used proceeds of the GSF fraud to pay Mr. Silver.
23-24, 67-68, 148-149	The defendant refuses to provide specific answers as to the funds used to finance his racing activities and denies that his Constantine Management Group account was used for racing.	Establishes consciousness of guilt in connection with the Hawaii and Eufora schemes: The defendant used proceeds of those frauds and his CMG account to pay for his racing activities.
51-52, 175	The defendant identifies a lien placed on his racecars by Fall Line Motorsports.	Establishes motive and unauthorized diversion in connection with the GSF scheme: The defendant used proceeds of the GSF fraud to pay off the lien.
54	The defendant admits that he bought two racecars from an individual named Blake Rosser.	Establishes unauthorized diversion in connection with the Hawaii scheme: The defendant used proceeds of the Hawaii fraud to buy the racecars.
55	The defendant identifies a debt that he owes to an individual named Ricardo.	Establishes unauthorized diversion in connection with the Eufora scheme: The defendant used proceeds of the Eufora fraud to pay Ricardo.

64-65	The defendant identifies various vehicles that he owns that are pledged as collateral for loans.	Establishes unauthorized diversion in connection with the GSF scheme: The defendant used proceeds of the GSF fraud to pay down some of these loans.
65, 197-200	The defendant indicates that he owes legal fees in connection with the Florida lawsuit pertaining to his racecar team (in which he is being deposed).	Establishes motive and unauthorized diversion in connection with the Eufora and GSF schemes: The defendant used proceeds of the Eufora and GSF frauds to pay these legal fees.
77	The defendant identifies Thomas Baker as his personal attorney.	Establishes unauthorized diversion in connection with the GSF fraud: The defendant used proceeds of the GSF fraud to pay Mr. Baker.
169-170	The defendant indicates that he is liable for a personal guaranty on an airpark in Arizona.	Establishes motive and unauthorized diversion in connection with the GSF fraud: The defendant used proceeds of the GSF fraud to arrange for the purchase of the airpark out of bankruptcy by a business associate and to thereafter make loan installment payments to that business associate.
172-173	The defendant indicates that he is friends with defendant Kenner but that Kenner is not involved in any of his businesses.	Establishes conspiracy and consciousness of guilt: The defendant established a tie between himself and Kenner but also acted to distance Kenner from scrutiny.
200	The defendant indicates that he hired Playboy models to attend his races.	Establishes unauthorized diversion in connection with the Eufora scheme: The defendant used proceeds of the Eufora fraud to pay for these models.

For the foregoing reasons, the government respectfully requests that the Court permit the admission of GX-8021R at trial.

Respectfully submitted,

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cc: All counsel of record (by ECF)